

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HP TUNERS, LLC, a Nevada limited liability company,)	NO. 3:18-cv-00527-LRH-WGC
)	
Plaintiff,)	STIPULATION AND ORDER FOR ENTRY
)	OF PRELIMINARY INJUNCTION
vs.)	
)	
KENNETH CANNATA,)	
)	
Defendant.)	
)	
)	

Plaintiff HP TUNERS, LLC (“HPT”), by and through its undersigned legal counsel, and Defendant KENNETH CANNATA (“Cannata”), by and through his undersigned legal counsel, hereby request that this Court enter an Order approving this Stipulation relating to HPT’s *Emergency Motion for Temporary Restraining Order and Preliminary Injunction and Consolidated Memorandum in Support* [ECF No. 19] (the “Emergency Motion”).

RECITALS

WHEREAS, HPT filed its Emergency Motion on April 23, 2019 requesting that the Court enter a temporary restraining order and preliminary injunction enjoining Cannata from engaging in certain conduct relative to confidential and proprietary information belonging to HPT;

1 WHEREAS, this Court entered its *Order* [ECF No. 25] (“TRO”) on April 24, 2019 in
2 which it granted in part and denied in part, without prejudice, the relief requested by HPT through
3 the Emergency Motion; and

4 WHEREAS, Cannata generally denies the allegations asserted against him in HPT’s
5 Emergency Motion but has reached an agreement with HPT to extend the TRO as a preliminary
6 injunction upon the terms and conditions set forth herein.

7 **STIPULATION**

8 NOW THEREFORE, in consideration of the foregoing recitals, HPT and Cannata hereby
9 stipulate and agree as follows:

10 1) The TRO is hereby extended as a preliminary injunction to remain effective as
11 against Cannata until such time as this Court may order that such preliminary injunction be
12 modified or vacated.

13 2) For so long as this preliminary injunction remains in effect, Cannata, his agents,
14 and any persons acting in concert with him (including but not limited to Kevin Sykes-Bonnett),
15 shall not and are hereby ENJOINED from the following activities:

- 16 a. Releasing any confidential or proprietary intellectual property belonging to HP
17 Tuners to the public;
- 18 b. Releasing or selling any products or services that have been developed using
19 HP Tuners’ proprietary code, including “the hardware device developed by
20 [Cannata] in connection with the Syked ECU Tuning, Inc. software solution”;
- 21 c. Releasing or selling any products or software based on or derived from HP
22 Tuners’ software or products;
- 23 d. Developing, planning, designing, researching, or, in any way creating any
24 software or hardware based on or derived from HP Tuners’ proprietary
25 intellectual property;

- e. Destroying, selling, concealing, or modifying any electronic storage devices, including but not limited to USB flash drives, mobile phones, servers, FTP servers, computers, hard drives, and solid-state drives that they have used since January 1, 2016;
- f. Destroying, concealing, or modifying any communications received from Syked ECU Tuning, Inc., Kevin Sykes-Bonnett, and John Martinson, since January 1, 2016; and
- g. Destroying, selling, concealing, or modifying any of HP Tuners' proprietary intellectual property that may be in their possession, including hardware devices and physical documents.

3) The \$5,000 bond posted with the Clerk of Court shall be returned to HPT, and no additional security shall be required as a condition of the entry of an order approving this Stipulation.

4) The entry of an order approving this Stipulation shall fully resolve HPT's Emergency Motion without prejudice to HPT's rights to seek to modify this preliminary injunction or to seek other injunctive relief through the filing of a separate motion.

5) By entering into this Stipulation and consenting to the entry of this preliminary injunction, Cannata does not admit any wrongdoing of any kind or waive any right or defense related to the matters addressed in this Stipulation, the TRO, or HPT's Emergency Motion.

6) Either HPT or Cannata may petition the Court to modify or vacate this preliminary injunction at any time.

7) In the event that either party files a motion requesting that the Court modify or vacate this preliminary injunction, the Court shall schedule a hearing to consider such motion to take place at the Court's earliest available hearing date on not less than thirty (30) days' notice.

8) The parties consent to the entry of an order approving this Stipulation.

1 DATED this 7th day of May, 2019.

2 LEE HIGH, LTD.

KOLESAR & LEATHAM

3
4 /s/ Elizabeth High, Esq.

CECILIA LEE, ESQ.

5 ELIZABETH HIGH, ESQ.

/s/ Bart K. Larsen, Esq.

BART K. LARSEN, ESQ.

Attorneys for Defendant Kenneth Cannata

6 MARKS & KLEIN

7
8 /s/ Andrew P. Bleiman, Esq.

ANDREW P. BLEIMAN, ESQ.

9 Attorneys for Plaintiff HP Tuners, LLC

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12 **IT IS SO ORDERED.**

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15 _____
HONORABLE LARRY R. HICKS
UNITED STATES DISTRICT JUDGE

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17 DATED: _____
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